

401 KAR 48:005. Definitions related to 401 KAR Chapter 48.

RELATES TO: KRS 224.1, 224.10, 224.40, 224.43, 224.50, 224.99, 40 C.F.R. Part 258

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-110, 224.40-305, 224.43-340, 224.50-824, 224.50-832

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 and the waste management provisions of KRS Chapter 224 require the cabinet to promulgate administrative regulations for the management of solid, special, and hazardous wastes. This chapter establishes technical requirements applicable to the management of solid waste. This administrative regulation establishes definitions for terms used in the administrative regulations of 401 KAR Chapter 48.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise specifically indicated by context, terms in 401 KAR Chapter 48 shall have the meanings given in this section. (1) "100-year floodplain" means any land area that is subject to a one (1) percent or greater chance of flooding in any given year from any source.

(2) "Above ground tank" means a device meeting the definition of "tank" and that is situated so that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

(3) "Active life" of a facility means the period from the initial receipt of waste at a waste site or facility until the cabinet receives certification of final closure.

(4) "Acute hazardous waste" is defined by 401 KAR 39:005.

(5) "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(6) "Application" means the form approved by the cabinet for applying for a permit, including any additions, revisions, or modifications and any narrative and drawings required by 401 KAR Chapters 47 or 48.

(7) "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(8) "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit or part of a facility, including the plant manager, superintendent, or person of equivalent responsibility.

(9) "Bird hazard" means an increase in the likelihood of bird and aircraft collisions that could cause damage to the aircraft or injury to its occupants.

(10) "Cabinet" is defined by KRS 224.1-010(8).

(11) "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous, or saline soils.

(12) "Cell" means a portion of any landfill that is isolated, usually by means of an approved barrier.

(13) "Certification" means a statement of professional opinion based upon knowledge and belief.

(14) "Closure" is defined by KRS 224.1-010(4).

(15) "Closure care" means the routine care, maintenance, monitoring, and any required corrective action of a solid waste disposal site or facility following certification of closure until the applicable requirements are met.

(16) "Conditionally exempt small quantity generator" means "very small quantity generator" as defined by 40 C.F.R. 260.10.

(17) "Construction/demolition debris landfill" means a solid waste site or facility for the disposal of construction/demolition waste. The technical requirements for construction/demolition debris landfills are established in 401 KAR 47:080, 401 KAR 48:050, and 401 KAR 48:060.

(18) "Construction/demolition waste" means waste resulting from the construction, remodeling, repair, and demolition of structures and roads, and for the disposal of uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance, and seasonal and storm related cleanup.

(19) "Contained landfill" means a solid waste site or facility that accepts solid waste for disposal that is located, designated, constructed, operated, maintained, and closed in accordance with 401 KAR 47:080, 401 KAR 48:050, and 401 KAR 48:070 through 401 KAR 48:090.

(20) "Contaminate" means introduce a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level established in 401 KAR 30:031, 401 KAR 47:030, Sections 5 and 6, or 401 KAR 39:090, Section 8;

(b) An increase in the concentration of that substance in the groundwater if the existing concentration of that substance exceeds the maximum contaminant level established in 401 KAR 30:031, 401 KAR 47:030, or 401 KAR 39:090, Section 8; or

(c) A significant increase above established background levels, for substances that do not have an established maximum contamination level.

(21) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(22) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion, or release of waste or waste constituents into the environment that has the potential for endangering human health or the environment. Financial planning to identify resources for initiation of the action is a part of contingency plan development.

(23) "Cover material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on; support vegetation; provide trafficability; or assure an aesthetic appearance.

(24) "Demonstration" is defined by KRS 224.1-010(7).

(25) "Disease vector" means all insects, birds, or gnawing animals, including rats, mice, or ground squirrels, which are capable of transmitting pathogens.

(26) "Disposal facility" means a facility or part of a facility at which solid waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(27) "Engineer" shall have the meaning specified in KRS 322.010.

(28) "Ephemeral stream" means a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and that has a channel bottom that is always above the local water table.

(29) "Explosive gas" means methane (CH₄).

(30) "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility consists of several treatment, storage, or disposal operational units, including one (1) or more landfills, surface impoundments, or combination of them.

(31) "Facility structures" means any buildings, sheds, or utility or drainage lines on the solid waste site or facility.

(32) "Final closure" of a solid waste site or facility means the approved closure of a solid

waste site or facility in accordance with 401 KAR 30:031, 401 KAR 47:030, and the applicable requirements of 401 KAR 48:060, 401 KAR 48:090, 401 KAR 48:170, or 401 KAR 48:200.

(33) "Flood plain" means areas adjoining inland waters that are inundated by the base flood, unless otherwise established in 401 KAR 30:031 or 401 KAR 47:030, and includes 100-year floodplain and floodway.

(34) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

(35) "Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

(36) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

(37) "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(38) "Groundwater" means the subsurface water occurring in the zone of saturation beneath the water table, and perched water zones below the B-soil horizon, including water circulating through fractures, bedding planes, and solution conduits.

(39) "Hazardous waste" is defined by 401 KAR 39:005.

(40) "Holocene" means the most recent epoch of the quaternary period, extending from the end of the Pleistocene to the present.

(41) "Industrial solid waste" is defined by KRS 224.1-010(30)(a)(3).

(42) "In-ground tank" means a device meeting the definition of "tank" in this section and if a portion of the tank is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

(43) "Intermittent stream" means a stream or reach of stream that drains a watershed of one (1) square mile or more but does not flow continuously during the calendar year.

(44) "Karst terrain" means a type of topography if limestone, dolomite, or gypsum is present and is characterized by naturally occurring closed topographic depressions or sinkholes, caves, disrupted surface drainage, and well developed underground solution channels formed by dissolution of these rocks by water moving underground.

(45) "Landfarming facility" means a facility for land application of sludges or other solid waste by any method for purposes of disposal. It can be on any piece or pieces of land and can improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and will not disturb the soil below three (3) feet from the surface.

(46) "Landfill" means a solid waste site or facility for the disposal of specific wastes that is located, designated, constructed, operated, maintained, and closed in conformance with 401 KAR Chapters 47 and 48, and 401 KAR 30:031.

(47) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing solid waste landfill unit.

(48) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from waste.

(49) "Liner" means a continuous layer of natural or manmade material, beneath or on the sides of a waste site or facility, that might include a waste pile, surface impoundment, landfill, or landfill cell, or beneath or on the sides of a waste site or facility that restricts the movement of the wastes, waste constituents, or leachate.

(50) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases that will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.

(51) "Monitoring" means the act of systematically inspecting and collecting data on opera-

tional parameters or on the quality of the air, soil, groundwater, or surface water.

(52) "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(53) "Nonputrescible" means not susceptible to rapid decomposition by bacteria, fungi, or oxidation sufficient to cause nuisances including odors, gases, or other offensive conditions.

(54) "Notice of intent" means the standard forms for applying for a solid waste site or facility permit as required by 401 KAR 47:160, 401 KAR 47:170, and 401 KAR 48:200.

(55) "Off-site" means properties noncontiguous to the site.

(56) "On-site" means on the same or geographically contiguous property that can be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way that the person controls and to which the public does not have access are also considered on-site property.

(57) "Open burning" means the combustion of any material or solid waste without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of emission of the gaseous combustion products.

(58) "Open dump" is defined by KRS 224.1-010(37).

(59) "Operational plan" means the approved plan of operations filed with the cabinet that describes the method of operation that the permittee will use in the treatment, storage, or disposal of wastes.

(60) "Operator" means any person responsible for overall operation of an on-site or off-site waste facility, including any private contractor conducting operational activities at a federal facility.

(61) "Owner" means any person who owns an on-site or off-site waste facility, or any part of a facility.

(62) "Perennial stream":

(a) Means a stream or that part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface run-off; and

(b) Does not mean "intermittent stream" or "ephemeral stream".

(63) "Permit":

(a) Means the authorization or other control document issued by the cabinet to implement the requirements of the waste management administrative regulations and the term includes permit-by-rule, registered permit-by-rule, research, development, and demonstration permit, and emergency permit: and

(b) Does not mean a draft permit or proposed permit.

(64) "Permittee" means any person holding a valid permit issued by the cabinet to manage, treat, store, or dispose of waste.

(65) "Person" is defined by KRS 224.1-010(16).

(66) "Personnel" or "facility personnel" means all persons who work at or oversee the operations of a waste facility, and whose actions or failure to act can result in noncompliance with the requirements of the waste management administrative regulations.

(67) "Point of compliance" means for solid waste site and facilities, groundwater monitoring wells located within 250 feet of the waste boundary as approved by the cabinet pursuant to KRS 224.10-100.

(68) "Point source":

(a) Means any discernible, confined, and discrete conveyance that might include any pipe,

ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft from which pollutants are or can be discharged; and

(b) Does not mean return flows from irrigated agriculture.

(69) "Pollutant" is defined by KRS 224.1-010(34).

(70) "Polychlorinated biphenyls" or "PCB" means halogenated organic compounds defined in accordance with 40 C.F.R. 761.3.

(71) "Postclosure" shall have the same meaning as "closure care."

(72) "Publicly owned treatment works" or "POTW" is defined by KRS 224.1-010(18).

(73) "Recovered material" is defined by KRS 224.1-010(18).

(74) "Representative samples" means a sample of a universe or whole, including a waste pile, lagoon, or groundwater, which can be expected to exhibit the average properties of the universe or whole.

(75) "Residual landfill" means a facility for the disposal of specific solid waste or wastes, including special waste, which is located, designed, constructed, operated, maintained, and closed in compliance with 401 KAR 30:031 and 401 KAR 47:030 and that receives a case-by-case design review by the cabinet.

(76) "Run-off" means any rainwater, leachate, or other liquid that drains overland from any part of a facility.

(77) "Run-on" means any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

(78) "Scavenging" means the removal of waste materials from a waste management site or facility in a manner deemed by the cabinet to be dangerous to the health and safety of any person.

(79) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the waste facility or activity.

(80) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other waste having similar characteristics and effects.

(81) "Solid waste" is defined by KRS 224.1-010(30)(a).

(82) "Solid waste management" is defined by KRS 224.1-010(38).

(83) "Solid waste site or facility" means any place at which solid waste is managed, processed, or disposed by landfilling, incineration, landfarming, or any other method. The term includes: construction/demolition debris landfill; collection box; contained landfill; convenience center; disposal facility; incinerator; injection well; landfarming facility; management facility; miscellaneous unit; municipal solid waste disposal facility; pile or waste pile; processing facility; recycling center; recycling facility; residual landfill; sanitary landfill; surface impoundment; tank; transfer facility; unit or solid waste unit; wastewater treatment unit; inert landfill; or residential landfill.

(84) "Solid waste unit" means a contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing waste constituents in the same area. Examples of solid waste units include a surface impoundment, a waste pile, a land processing area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(85) "State":

(a) Means any of the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, or Guam; and

(b) Any foreign country.

(86) "Storage" is defined by KRS 224.1-010(27).

(87) "Tank" means a stationary device designed to contain an accumulation of leachate or solid waste that is constructed primarily of nonearthen materials, including wood, concrete, steel, or plastic, which provide structural support.

(88) "Tank system" means a solid waste tank and its associated piping, ancillary equipment, and containment system.

(89) "TENORM" is defined by KRS 211.862(13), except as established in KRS 211.863(5).

(90) "Transportation" is defined by KRS 224.1-010(28).

(91) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(92) "Vessel" means any watercraft used or capable of being used as a means of transportation on the water.

(93) "Washout" means the carrying away of waste by waters as a result of flooding.

(94) "Waste" is defined by KRS 224.1-010(30).

(95) "Waste disposal facility" shall have the same meaning as KRS 224.40-310.

(96) "Wastewater treatment plant " is defined by 401 KAR 5:002.

(97) "Water" or "waters of the Commonwealth" is defined by KRS 224.1-010(32).

(98) "Well" means any shaft or pit dug or bored into the earth, generally of cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

(99) Wetland means land that has a predominance of hydric soils and is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. (21 Ky.R. 501; eff. 11-7-1994; Am. 23 Ky.R. 990; eff. 3-12-1997; 44 Ky.R. 320, 1259; eff. 12-7-2017.)